



Davis Graham & Stubbs LLP

March 26, 2002



**VIA FEDERAL EXPRESS**

RECORDATION NO. 23922 FILED

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423-0001

APR 3 '02 3-00 PM  
TS  
SURFACE TRANSPORTATION BOARD

Dear Mr. Williams:

I have enclosed two originally executed copies of the document described below, to be recorded with the Surface Transportation Board pursuant to Section 11301 of Title 49 of the U.S. Code.

This document is a Credit and Security Agreement dated March 25, 2002 between Williams Sodium Products Company, as the Lender, and American Soda, L.L.P., as the Borrower, and it is a primary document.

The names and addresses of the parties to the enclosed document are as follows:

Borrower:

American Soda, L.L.P.  
2200 Grand Avenue  
Glenwood Springs, Colorado 81601

Lender:

Williams Sodium Products Company  
One Williams Center  
Tulsa, Oklahoma 74172

A description of the equipment covered by the document follows:

Three hundred fifty (350) 4191 cubic foot covered hopper railcars bearing the following reporting marks: ASHX 1550 thru ASHX 1899, inclusive.

A check in the amount of \$28.00 is enclosed to cover the recordation fee. Please return a file stamped copy of the enclosed document to Joel Benson, Esq., Davis Graham & Stubbs LLP, 1550 17<sup>th</sup> Street, Suite 500, Denver, Colorado 80202.

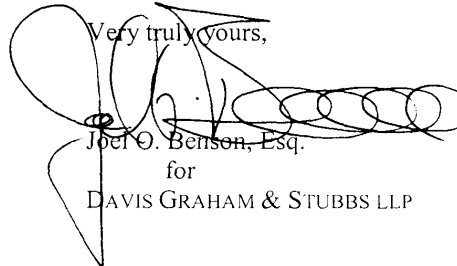
Joel Benson . 303 892 7470 . joel.benson@dgsllaw.com

Mr. Vernon A. Williams, Secretary  
March 26, 2002  
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A short summary of the document to appear in the index is as follows:

Credit and Security Agreement between Williams Sodium Products Company, as the Lender, and American Soda, L.L.P., as the Borrower, dated March 25, 2002, covering 350 4191 cubic foot covered hopper railcars bearing the following reporting marks: ASHX 1550 thru ASHX 1899, inclusive.

Thank you for your attention to this matter. If you have any questions, please call me (303-892-7470).

Very truly yours,  
  
Joel O. Benson, Esq.  
for  
DAVIS GRAHAM & STUBBS LLP

Enclosure

APR 5 '02 3:00 PM

**CREDIT AND SECURITY AGREEMENT****SURFACE TRANSPORTATION BOARD**

AGREEMENT made March 26, 2002, between Williams Sodium Products Company, a Delaware corporation, with principal offices at One Williams Center, Tulsa, Oklahoma 74172 ("Lender") and American Soda, L.L.P., a Colorado limited liability partnership with principal offices at 2200 Grand Avenue, Glenwood Springs, Colorado 81601 ("Borrower"). Unless otherwise defined herein, all terms in this Agreement shall incorporate the definition given them in the Limited Liability Partnership Agreement by and between American Alkali, Inc. and Lender, as amended (the "Partnership Agreement").

1. *Loan.* Lender shall lend Borrower \$18,640,000 (the "Loan").
2. *Term.* The term of the Loan shall be as defined in Section 6 hereof.
3. *Procedure for Borrowing.* Borrower shall deliver to Lender a note in the form of Exhibit A attached hereto (the "Note"), and comply with the conditions for borrowing stated in this Agreement and the Note.
4. *Payments of Principal and Interest.*

4.01 Repayment of Loan. The Borrower hereby promises to pay to the Lender the entire outstanding principal amount of the Loan and interest thereon which shall be due and payable per the provisions of Section 6 herein. The Borrower will apply all remaining Net Cash from Operations, after paying any outstanding principal and interest owed to Lender under that certain Loan Agreement dated January 7, 2000 between Lender and Borrower, towards the repayment of the outstanding principal and interest balance of the Loan until the Loan is fully repaid. Such repayments will be applied first to interest, then to principal.

4.02 Mandatory Prepayments. The Borrower shall make the following mandatory payments (the "Mandatory Prepayments") (as prepayments to be effected in each case in the manner specified below):

(a) *Borrower's Net Cash from Operations.* 100% of the Borrower's remaining Net Cash from Operations, after paying any outstanding principal and interest owed to Lender under that certain Loan Agreement dated January 7, 2000 between Lender and Borrower shall be used to prepay the Loan.

(b) *Sale of Assets.* All proceeds from the sale of the Borrower's assets (net of taxes and reasonable commissions, as determined by Lender) other than sale of [soda, other minerals/products] in the ordinary course of business.

(c) *Net Proceeds from Alternative Loan.* All proceeds from the issuance of other debt obligations or equity offerings of the Borrower except any such debt obligations owed to Lender, after paying any outstanding principal and interest owed to Lender under that certain Loan Agreement dated January 7, 2000 between Lender and Borrower.

(d) Change of Control. All outstanding principal and interest of the Loan, after paying any outstanding principal and interest owed to Lender under that certain Loan Agreement dated January 7, 2000 between Lender and Borrower, upon a sale by Lender of its partnership interest in Borrower, or any merger or consolidation of or involving the Borrower, the sale, transfer or other disposition of all or substantially all the assets of the Borrower or a sale or transfer of a controlling interest in Borrower to a third party.

5. *Conditions of Loan.* The obligation of Lender to make the Loan is subject to the following conditions all of which Borrower represents and warrants have been met:

(a) No Event of Default and no potential event of default has occurred and is continuing;

(b) the proceeds of the proposed Loan disbursement are needed by the Borrower in order to finance the acquisition of certain assets described on Exhibit B and will be used by the Borrower to finance the acquisition of the assets described on Exhibit B;

(c) the Borrower has not incurred any Material Loss or liability;

(d) after taking into account the amount and effect of the Loan, the Borrower is not in violation of:

(i) the Partnership Agreement

(ii) any provisions contained in any document to which the Borrower is a party (including this Agreement) or by which the Borrower is bound; or

(iii) any law, rule or regulation directly or indirectly limiting or otherwise restricting the Borrower's borrowing power or authority or its ability to borrow.

(e) Borrower, in addition to the Note, shall deliver to Lender all other papers, documents and instruments required to comply with the conditions of this Agreement, as counsel for Lender reasonably requests.

6. *Note Provisions.* The principal amount of this Loan evidenced hereby shall be payable on the earlier of the closing of a fully funded Acceptable Non Recourse Financing, as such term is defined in the Partnership Agreement, the occurrence of an event triggering a Mandatory Prepayment described in Section 4.02 herein or in (16) semi-annual payments as set forth in Exhibit C attached hereto. The Borrower further promises to pay interest on the unpaid principal amount from time to time outstanding on the 15<sup>th</sup> day of each month commencing on April 15, 2002, at the fixed rate of 10% per annum. Interest shall be computed on the basis of a year of 360 days for the actual number of days elapsed on the unpaid principal amount. Any amount of principal not paid when due shall bear additional interest from the date on which such amount is due until such amount is paid in full, at a rate per annum equal to two percent (2%). All payments of principal and interest shall be payable in lawful currency of the United States of

America at the office of the Lender as provided above or such other address as the holder hereof shall have designated to the Borrower, in immediately available funds.

7. *Prepayment.* Borrower may prepay all or part of any note. Any partial prepayment, however, shall be applied against unpaid installments on the note in the inverse order of maturity and may not be made in amounts of less than \$5,000.

8. *Status of Borrower.* Borrower represents and warrants to the Lender:

(a) that (i) its exact legal name is set forth in the preamble of this Agreement, (ii) it is a limited liability partnership duly organized and existing under the laws of the State of Colorado and (iii) its organizational identification number issued by its state of organization is 19961127170;

(b) that it is authorized to borrow under this Agreement, to execute and deliver the Note and otherwise perform its obligations under this Agreement and the Note;

(c) that it has all authority and power to own its property and conduct its business as it is currently carried on; that the performance of its obligations under this Agreement and the issuance of the Note will not conflict with any provision of law, the Partnership Agreement or any agreement binding on it;

(d) that, except as disclosed in writing to Lender, it is not a party to any pending or threatened litigation or to any proceeding or action for the assessment or collection of additional taxes, and that it knows of no known contingent liabilities not provided for or disclosed in the financial statement provided Lender;

9. *Title of Borrower.* Borrower represents and warrants to the Lender that it has good and marketable title, free of mortgage, pledge, lien, security interest, encumbrance, or charge, to all those assets reflected on the financial statement and to assets since acquired including, without limitation, the Pledged Collateral. Taxes not due or payable or otherwise delinquent are excepted, as are assets disposed of in the ordinary course of business or disclosed in writing to Lender. Borrower further represents and warrants to the Lender that the Lender has, or upon the filing and recording of this Agreement and financing statements will have, as security for the Secured Obligations, a valid and perfected lien and security interest on and in all Pledged Collateral, free of all other liens, security interests and claims.

10. *Covenants of Borrower.* Borrower covenants that until the Loan is paid in full it will, unless Lender agrees in writing to a modification:

(a) *Furnish Lender:* within 90 days after the end of each fiscal year, with a copy of its annual audited report, certified by the accountants that supplied the statements at the execution, or by any of Borrower's other accountants that are satisfactory to Lender, the report to be prepared in conformity with generally accepted accounting principles consistently applied; within 30 days after the end of each quarter of its fiscal year, with a copy of Borrower's unaudited

financial statement similarly prepared; and, from time to time, with all other financial and other information reasonably requested by Lender.

(b) Maintain insurance to the extent and against such hazards and liabilities as are in keeping with Borrower's current insurance program.

(c) Pay when due all taxes, assessments, and other liabilities, except those contested in good faith;

(d) Not create or permit to exist any mortgage, pledge, security interest, lien, or other encumbrance on any assets now owned or acquired hereafter except liens (1) to secure Acceptable Non-Recourse Financing; (2) in connection with the acquisition of property after the date of this Agreement and attaching only to the property being acquired, but only so long as the indebtedness secured thereby does not exceed two thirds of the cost of that property; (3) for current taxes not delinquent, or as security for taxes being contested in good faith, or in connection with worker's compensation insurance, unemployment insurance, or social security benefits; and (4) for which prior written approval of Lender has been received;

(e) Not become a guarantor or surety, or pledge its credit on any undertaking of another, or make any loans or advances;

(f) Not become a party to any merger or consolidation; not sell, transfer, convey, or lease all or any part of its property; not sell or assign any accounts receivable; and not purchase or otherwise acquire all or substantially all of the assets of any corporation or other entity or any shares or similar interest in any other corporate entity except as approved in writing by Lender;

(g) Environmental Compliance.

(i) The Borrower shall not use or release, or, to the extent it is in its control, permit the use or release of, hazardous materials at the Properties other than in compliance with all applicable Environmental Laws and in a manner that could not reasonably be expected to result in a Material Loss;

(ii) The Borrower shall deliver to the Lender (i) promptly upon obtaining knowledge of (A) any material fact, circumstance, condition or occurrence that could reasonably be expected to form the basis of an environmental claim arising with respect to the Operations or (B) any pending or threatened environmental claim arising with respect to the Operations, a notice thereof describing the same in reasonable detail and, together with such notice or as soon thereafter as possible, a description of the action that the Borrower has taken or proposes to take with respect thereto and, thereafter, from time to time, such detailed reports with respect thereto as the Lender may reasonably request and (ii) promptly upon their becoming available, copies of all written communications with any government authority relating to any Environmental Laws or environmental claim arising out of the Operations.

(h) Maintenance of Properties.

(i) The Borrower shall maintain and preserve the Operations and the Properties in good working order and condition, ordinary wear and tear excepted, and in accordance with generally accepted prudent practices.

(ii) The Borrower shall restore any of the Properties now or hereafter subject of an event of loss (whether or not insured against or insurable).

(iii) The Borrower shall not permit all or any portion of the Properties to be removed (except in the ordinary course of business with respect to maintenance of components of the Operations that is required to be conducted away from the Properties), demolished or materially altered.

(i) Maintenance of Licenses. Borrower shall do all things necessary to renew, extend and continue in effect all permits, licenses and authorizations which may at any time and from time to time be necessary to operate its businesses in compliance with all applicable laws, rules, orders, and regulations if the failure to have such permits, licenses and authorizations could have an adverse effect on its business, operations or financial or other condition or adversely affect Borrower's ability to perform its obligations under the Loan documents.

(j) Compliance with Laws. Borrower shall comply with all laws, rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it or its property may be subject where the failure to so comply with any such laws, rules, regulations, orders, writs, judgments, injunctions, decrees, or awards, singly or in combination, could have an adverse effect on the business, operations or financial or other condition of the Borrower or is reasonably likely to adversely affect the ability of the Borrower to perform its obligations under the Loan documents.

11. *Grant of Security Interest.* The Borrower hereby irrevocably grants to the Lender a security interest in all right, title and interest of the Borrower (whether now owned or hereafter acquired) in, to and under the assets described on Exhibit B hereto and all Proceeds (as such term is defined in Article 9 of the UCC) and products thereof (collectively the "Pledged Collateral").

12. *Security for Obligations.* The pledge, transfer, assignment and grant of security interest made by the Borrower pursuant to Section 11 secures the payment and performance of all obligations of the Borrower now or hereafter existing or incurred under, arising out of or in connection with this Agreement and the Note, whether for principal, interest, fees, expenses, indemnities or otherwise (all such obligations of the Borrower being the "**Secured Obligations**").

13. *Delivery of Pledged Collateral.*

(a) All instruments and certificates representing or evidencing the Pledged Collateral shall be delivered to and held by the Lender and shall be in suitable form for transfer by delivery, or shall be accompanied by duly executed instruments of transfer or assignment in blank and undated, all in form and substance satisfactory to the Lender.

(b) The Lender shall have the right, at any time in its discretion after the occurrence and during the continuance of an Event of Default and without notice to the Borrower, to transfer to or to register in the name of the Lender any or all of such Pledged Collateral. Promptly after any such transfer or registration, the Lender shall give notice thereof to the Borrower, but the failure to give such notice shall not affect any of the rights or remedies of the Lender hereunder. The Lender shall have the right at any time to exchange instruments or certificates representing or evidencing such Pledged Collateral for instruments or certificates of smaller or larger denominations.

14. *Borrower Remains Liable.* Anything herein to the contrary notwithstanding, (a) the Borrower shall remain liable under the contracts and agreements included in the Pledged Collateral to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by the Lender of any of the rights hereunder shall not release the Borrower from any of its duties or obligations under the contracts and agreements included in the Pledged Collateral, and (c) the Lender shall not have any obligation or liability under the contracts and agreements included in the Pledged Collateral by reason of this Agreement, nor shall any such person be obligated to perform any of the obligations or duties of the Borrower thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

15. *Further Assurances.*

(a) The Borrower agrees that at any time and from time to time, at the expense of the Borrower, the Borrower will promptly execute and deliver all further instruments and documents, and take all further action that the Lender may reasonably request, in order to perfect and protect any assignment and security interest granted or purported to be granted hereby or to enable the Lender to exercise and enforce its rights and remedies hereunder with respect to any Pledged Collateral. Without limiting the generality of the foregoing, the Borrower will, upon the reasonable request of the Lender, (i) execute and deliver to the Lender such financing or continuation statements or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Lender may reasonably request, in order to perfect and preserve the security interests granted or purported to be granted hereby and (ii) deliver to the Lender promptly upon receipt thereof all instruments representing or evidencing any of the Pledged Collateral duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to the Lender.

(b) The Borrower hereby authorizes the Lender to file (i) one or more financing or continuation statements, and amendments thereto, relating to all or any part of the Pledged Collateral without the signature of the Borrower and (ii) this Agreement or certified copies thereof and all amendments thereto with the United States Surface Transportation Board or such other agency, board or office as may be required or permitted by law from time to time. A photocopy or other reproduction of this Agreement or any financing statement covering the Pledged Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.



(c) The Borrower will not, without the prior written consent of the Lender (after having given the Lender not less than 30 days' prior written notice thereof and after having executed and delivered to the Lender such further instruments and documents in connection therewith as may be requested by the Lender pursuant to this Section 15) change its name, move or transfer from the location specified in the preamble hereof (or any subsequent location) its principal place of business or chief executive office, or the location of the Borrower's books and records with respect to the Pledged Collateral.

16. *Lender Appointed Attorney-in-Fact.* The Borrower hereby irrevocably appoints the Lender the Borrower's attorney-in-fact, with full authority in the place and stead of the Borrower and in the name of the Borrower or otherwise, from time to time in the Lender's discretion, upon the occurrence and during the continuance of an Event of Default, to take any action and to execute any instrument, as applicable, that the Lender, in its reasonable judgment, may deem necessary or advisable to accomplish the purposes of this Agreement.

17. *Lender May Perform.* If the Borrower fails to perform any agreement contained herein, the Lender may itself perform, or cause the performance of, such agreement, and the expenses of the Lender incurred in connection therewith shall be payable by the Borrower.

18. *Reasonable Care.* The powers conferred on the Lender hereunder are solely to protect its interest in the Pledged Collateral and shall not impose any duty upon it to exercise any such powers. The Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Pledged Collateral in its possession if the Pledged Collateral is accorded treatment substantially equal to that which an ordinary person accords its own property, it being understood that the Lender shall not have any responsibility for taking any necessary steps to preserve rights against any parties with respect to any Pledged Collateral.

19. *Remedies upon Default.* If any Event of Default shall have occurred and be continuing, the Lender may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all of the rights and remedies of a secured party under the Uniform Commercial Code in effect in the State of Oklahoma at that time (the "UCC") to the fullest extent permitted under applicable law, and the Lender may also, without notice except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, or at any of the Lender's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Lender may deem commercially reasonable. The Borrower agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to the Borrower of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Lender shall not be obligated to make any sale of Pledged Collateral or any part thereof regardless of notice of sale having been given. The Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

20. *Continuing Assignment and Security Interest; Transfer of Advance.* This Agreement shall create a continuing security interest in the Pledged Collateral and shall (i) remain in full force and

effect until the payment and performance in full of the Secured Obligations, (ii) be binding upon the Borrower and its successors and assigns, and (iii) inure, together with the rights and remedies of the Lender hereunder, to the benefit of the Lender and its respective successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), the Lender may assign any of its interest in the Loan to any other person, and such other person shall thereupon become vested with all the benefits in respect thereof granted to the Lender herein or otherwise. Upon the payment in full of the Secured Obligations, the Borrower shall be entitled to the return, upon its request and at its expense, of such of the Pledged Collateral as shall not have been sold or otherwise applied pursuant to the terms hereof and the Lender will execute and deliver such instruments, including UCC termination statements, as the Borrower may reasonably request to confirm the release and discharge of the Lien hereunder.

21. *Default.* Borrower shall be in default if any of the following events ("Event of Default") occur:

- (a) It fails to pay any principal, interest or other amount payable under this Agreement or the Note when due in accordance with this Agreement or the Note within five days after any such principal, interest or other amount becomes due;
- (b) It becomes insolvent or admits in writing its inability to pay its debts as they mature; applies for, consents to, or acquiesces in the appointment of a trustee or receiver for any of its property; in the absence of an application, consent, or acquiescence a trustee or receiver is appointed for it or a substantial part of its property and is not discharged within 30 days; it otherwise commits an act of bankruptcy; or any bankruptcy, reorganization, debt arrangement, or other proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or against it and if instituted is consented to or acquiesced in by it or remains for 30 days undismissed or the Borrower shall generally not, or shall be unable to or shall admit in writing its inability to pay its debts as they become due;
- (c) It defaults in the performance of the terms and conditions of this Agreement or the Note and such default continues for 30 days after notice thereof from Lender or from the holder of the Note;
- (d) Any representation or warranty made by Borrower is untrue in any material respect, or any schedule, statement, report, notice, or writing furnished by Borrower to Lender is untrue in any material respect on the date as of which the facts set forth are stated or certified;
- (e) Any government, board, agency, department, or commission takes possession or control of a substantial part of Borrower's property and such possession or control continues for 30 days.
- (f) It fails to pay any principal of or premium or interest on any debt which is outstanding in a principal amount of at least \$[50,000] when the same becomes due and payable and such failure continues after the applicable grace period, if any, specified in the agreement or instrument, if the effect of such condition is to accelerate, or permit the acceleration of, the maturity of such debt, or any such debt shall be declared due and payable, or required to be

prepaid (other than a regularly scheduled required prepayment), prior to the stated maturity date thereof.

22. *Acceleration at Option of Lender.* If any of the events listed in paragraph 21(a), (b), (c), or (d) occur and continue, Lender may declare the Loan and the Note immediately due and payable, at which time all unpaid principal and interest installments thereunder shall immediately become due and payable. Lender shall promptly advise Borrower in writing of any acceleration under this paragraph, but the failure to do so shall not impair the effect of a subsequent declaration.

23. *Binding Effect.* This Agreement shall be binding on the respective successors and assigns of Lender and Borrower and shall inure to the benefit of Lender's successors and assigns.

24. *Survival of Representations.* All representations or warranties of Borrower shall survive the execution and delivery of this Agreement and all notes executed and delivered under it, and no investigation by Lender nor any closing shall affect the representations or warranties or the right of Lender to rely on and enforce them.

25. *Loan Expenses.* Borrower shall reimburse Lender, on demand, for all reasonable out-of-pocket expenses incurred or reasonably to be incurred by Lender in connection with the Loan including, without limitation, reasonable attorneys fees and expenses and all taxes, fees and costs associated with the filing and recording of this Agreement and all financing statements and continuation statements.

26. *Non-Waiver.* No delay or failure by Lender or the holder of any note to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

27. *Governing Law.* This Agreement shall be construed in accordance with and governed by the laws of the State of Oklahoma.

28. *Headings.* Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

29. *Counterparts.* This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

30. *Time of Essence.* Time is expressly declared to be the essence of this Agreement.

31. *Entire Agreement; Modification.* This instrument constitutes the entire Agreement between Lender and Borrower. It may not be modified except in a writing signed by both parties.

32. *Notices.* All notices under this Agreement shall be in writing and delivered by certified mail, return receipt requested, postage prepaid, addressed to the respective parties at their principal offices stated at the beginning hereof.
33. *No Third Party Beneficiaries.* The agreement of the Lender to make the Loan to the Borrower for the account of the Borrower on the terms and conditions set forth in this Agreement, is solely for the benefit of the Borrower and no other person has any rights hereunder against the Lender or with respect to the extension of credit contemplated hereby.
34. *Special Exculpation.* No claim may be made by the Borrower or any other person against the Lender, directors, officers, employees, attorneys or agents of any of them for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or relating to this Agreement or any other financing document or the transactions contemplated hereby or thereby, or any act, omission or event occurring in connection therewith and the Borrower hereby waives, releases and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.
35. *Waiver of Jury Trial.* Each of the Borrower and the Lender hereby irrevocably waives, to the fullest extent permitted by law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.
36. *Indemnification.* Borrower agrees to pay on demand all reasonable costs and expenses incurred by Lender in connection with enforcement of either of the Loan documents. Borrower agrees to the fullest extent permitted by law, to indemnify and hold harmless the Lender and each of its directors, officers, employees and agents (each an "Indemnified Party") from and against any and all claims, damages, liabilities and expenses (including without limitation fees and disbursements of counsel) arising out of or in connection with any investigation, litigation or proceeding (whether or not any Indemnified Party is a party) arising out of, related to or in connection with the Loan documents, the Loan or any transaction in which any proceeds of all or any part of the Loan are applied.
37. *Severability.* If any term or provision of any Loan document shall be determined to be illegal or unenforceable, all other terms and provisions of the Loan documents shall nevertheless remain effective and shall be enforced to the fullest extent permitted by applicable law.
38. *Further Assurances.* The parties agree (a) to furnish upon request to each other such further information, (b) to execute and deliver to each other such other documents, and (c) to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement and the Loan documents.
39. *Effective Date.* This Agreement shall be effective as of March 26, 2002.

In witness whereof the parties have caused this Agreement to be executed by their proper officers and by having their seals affixed on the day and year first above written.

Attest:

Suzanne H. Coste

Williams Sodium Products Company

by

Jack D. McCarthy  
Vice President, Treasurer

Attest:

Suzanne H. Coste



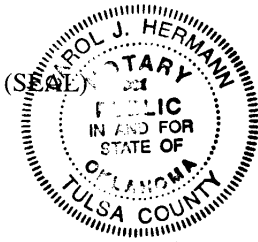
American Soda, L.L.P.

by

[Signature]

State of Oklahoma )  
County of Tulsa ) ss

On this 22<sup>nd</sup> day of March, 2002, before me personally appeared Jack D. McCarthy, to me personally known, who being by me duly sworn, says that (s)he is the Vice President of Williams Sodium Products Co., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Carol J. Hermann  
Signature of Notary Public

My commission expires: March 22, 2005

State of Oklahoma )  
 ) ss  
County of Tulsa )

On this 25<sup>th</sup> day of March, 2002, before me personally appeared Randy Bernard, to me personally known, who being by me duly sworn, says that (s)he is the President of Williams International, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Kathleen M. Henslick  
Signature of Notary Public

My commission expires: 1/31/2005

EXHIBIT A  
Promissory Note

US\$ [\_\_\_\_\_]

Tulsa, Oklahoma  
[\_\_\_\_Date\_\_\_\_]

FOR VALUE RECEIVED, the undersigned, AMERICAN SODA, L.L.P. ("Borrower") promises to pay to the order of WILLIAMS SODIUM PRODUCTS COMPANY ("Lender"), at the office of the Lender at One Williams Center, Tulsa, Oklahoma, 74172, or such other address as the Lender hereof shall have previously designated in writing to the Borrower, the aggregate unpaid principal amount of US\$[ ] ( ) (the "Loan"). The principal amount of the Loan evidenced hereby shall be payable on the earlier of the closing of a fully funded Acceptable Non Recourse Financing, as such term is defined in the Partnership Agreement, the occurrence of an event triggering a Mandatory Prepayment or in (16) semi-annual payments. The Borrower further promises to pay interest on the unpaid principal amount of this Promissory Note from time to time outstanding, at the rate of the lesser of ten per cent (10%) per annum or the maximum rate permitted by law. Interest shall be computed on the basis of a year of 360 days for the actual number of days elapsed on the unpaid principal amount. Any amount of principal not paid when due shall bear additional interest from the date on which such amount is due until such amount is paid in full, at a rate per annum equal to two percent (2%). All payments of principal of and interest on this Promissory Note shall be payable in lawful currency of the United States of America at the office of the Lender as provided above or such other address as the holder hereof shall have designated to the Borrower, in immediately available funds.

All parties hereto, whether as makers, endorsers, or otherwise, severally waive presentment for payment, demand, protest, and notice of dishonor, notice of the existence, creation or nonpayment of the Loan and all other notices whatsoever. The Borrower agrees to pay all costs, including reasonable attorney fees, incurred by the Lender in enforcing payment hereof.

The Note shall be governed by and construed in accordance with the laws of the State of Oklahoma, without regard to conflicts of law principles. The Borrower and Lender hereby waive all rights to a jury trial in any applicable jurisdiction.

**AMERICAN SODA, L.L.P.**

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

## EXHIBIT B

Description of Cars: Three hundred fifty (350) 4191 cubic foot covered hopper railcars bearing the following reporting marks:  
ASHX 1550 thru ASHX 1899, inclusive



# EXHIBIT C

## Repayment Schedule

Loan Amount      \$ 18,640,000  
Loan Date          3/26/2002

Date	# of Days	Beginning Principal	Interest @ 10%	Principal Repayment	End. Principal	Monthly Payment
4/15/2002	20	\$ 18,640,000	\$ 103,556		\$ 18,640,000	\$ 103,556
5/15/2002	30	\$ 18,640,000	\$ 155,333		\$ 18,640,000	\$ 155,333
6/15/2002	31	\$ 18,640,000	\$ 160,511	\$ (1,165,000)	\$ 17,475,000	\$ 1,325,511
7/15/2002	30	\$ 17,475,000	\$ 145,625		\$ 17,475,000	\$ 145,625
8/15/2002	31	\$ 17,475,000	\$ 150,479		\$ 17,475,000	\$ 150,479
9/15/2002	31	\$ 17,475,000	\$ 150,479		\$ 17,475,000	\$ 150,479
10/15/2002	30	\$ 17,475,000	\$ 145,625		\$ 17,475,000	\$ 145,625
11/15/2002	31	\$ 17,475,000	\$ 150,479		\$ 17,475,000	\$ 150,479
12/15/2002	30	\$ 17,475,000	\$ 145,625	\$ (1,165,000)	\$ 16,310,000	\$ 1,310,625
1/15/2003	31	\$ 16,310,000	\$ 140,447		\$ 16,310,000	\$ 140,447
2/15/2003	31	\$ 16,310,000	\$ 140,447		\$ 16,310,000	\$ 140,447
3/15/2003	28	\$ 16,310,000	\$ 126,856		\$ 16,310,000	\$ 126,856
4/15/2003	31	\$ 16,310,000	\$ 140,447		\$ 16,310,000	\$ 140,447
5/15/2003	30	\$ 16,310,000	\$ 135,917		\$ 16,310,000	\$ 135,917
6/15/2003	31	\$ 16,310,000	\$ 140,447	\$ (1,165,000)	\$ 15,145,000	\$ 1,305,447
7/15/2003	30	\$ 15,145,000	\$ 126,208		\$ 15,145,000	\$ 126,208
8/15/2003	31	\$ 15,145,000	\$ 130,415		\$ 15,145,000	\$ 130,415
9/15/2003	31	\$ 15,145,000	\$ 130,415		\$ 15,145,000	\$ 130,415
10/15/2003	30	\$ 15,145,000	\$ 126,208		\$ 15,145,000	\$ 126,208
11/15/2003	31	\$ 15,145,000	\$ 130,415		\$ 15,145,000	\$ 130,415
12/15/2003	30	\$ 15,145,000	\$ 126,208	\$ (1,165,000)	\$ 13,980,000	\$ 1,291,208
1/15/2004	31	\$ 13,980,000	\$ 120,383		\$ 13,980,000	\$ 120,383
2/15/2004	31	\$ 13,980,000	\$ 120,383		\$ 13,980,000	\$ 120,383
3/15/2004	29	\$ 13,980,000	\$ 112,617		\$ 13,980,000	\$ 112,617
4/15/2004	31	\$ 13,980,000	\$ 120,383		\$ 13,980,000	\$ 120,383
5/15/2004	30	\$ 13,980,000	\$ 116,500		\$ 13,980,000	\$ 116,500
6/15/2004	31	\$ 13,980,000	\$ 120,383	\$ (1,165,000)	\$ 12,815,000	\$ 1,285,383
7/15/2004	30	\$ 12,815,000	\$ 106,792		\$ 12,815,000	\$ 106,792
8/15/2004	31	\$ 12,815,000	\$ 110,351		\$ 12,815,000	\$ 110,351
9/15/2004	31	\$ 12,815,000	\$ 110,351		\$ 12,815,000	\$ 110,351
10/15/2004	30	\$ 12,815,000	\$ 106,792		\$ 12,815,000	\$ 106,792
11/15/2004	31	\$ 12,815,000	\$ 110,351		\$ 12,815,000	\$ 110,351
12/15/2004	30	\$ 12,815,000	\$ 106,792	\$ (1,165,000)	\$ 11,650,000	\$ 1,271,792
1/15/2005	31	\$ 11,650,000	\$ 100,319		\$ 11,650,000	\$ 100,319
2/15/2005	31	\$ 11,650,000	\$ 100,319		\$ 11,650,000	\$ 100,319
3/15/2005	28	\$ 11,650,000	\$ 90,611		\$ 11,650,000	\$ 90,611
4/15/2005	31	\$ 11,650,000	\$ 100,319		\$ 11,650,000	\$ 100,319
5/15/2005	30	\$ 11,650,000	\$ 97,083		\$ 11,650,000	\$ 97,083

6/15/2005	31	\$ 11,650,000	\$ 100,319	\$ (1,165,000)	\$ 10,485,000	\$ 1,265,319
7/15/2005	30	\$ 10,485,000	\$ 87,375		\$ 10,485,000	\$ 87,375
8/15/2005	31	\$ 10,485,000	\$ 90,288		\$ 10,485,000	\$ 90,288
9/15/2005	31	\$ 10,485,000	\$ 90,288		\$ 10,485,000	\$ 90,288
10/15/2005	30	\$ 10,485,000	\$ 87,375		\$ 10,485,000	\$ 87,375
11/15/2005	31	\$ 10,485,000	\$ 90,288		\$ 10,485,000	\$ 90,288
12/15/2005	30	\$ 10,485,000	\$ 87,375	\$ (1,165,000)	\$ 9,320,000	\$ 1,252,375
1/15/2006	31	\$ 9,320,000	\$ 80,256		\$ 9,320,000	\$ 80,256
2/15/2006	31	\$ 9,320,000	\$ 80,256		\$ 9,320,000	\$ 80,256
3/15/2006	28	\$ 9,320,000	\$ 72,489		\$ 9,320,000	\$ 72,489
4/15/2006	31	\$ 9,320,000	\$ 80,256		\$ 9,320,000	\$ 80,256
5/15/2006	30	\$ 9,320,000	\$ 77,667		\$ 9,320,000	\$ 77,667
6/15/2006	31	\$ 9,320,000	\$ 80,256	\$ (1,165,000)	\$ 8,155,000	\$ 1,245,256
7/15/2006	30	\$ 8,155,000	\$ 67,958		\$ 8,155,000	\$ 67,958
8/15/2006	31	\$ 8,155,000	\$ 70,224		\$ 8,155,000	\$ 70,224
9/15/2006	31	\$ 8,155,000	\$ 70,224		\$ 8,155,000	\$ 70,224
10/15/2006	30	\$ 8,155,000	\$ 67,958		\$ 8,155,000	\$ 67,958
11/15/2006	31	\$ 8,155,000	\$ 70,224		\$ 8,155,000	\$ 70,224
12/15/2006	30	\$ 8,155,000	\$ 67,958	\$ (1,165,000)	\$ 6,990,000	\$ 1,232,958
1/15/2007	31	\$ 6,990,000	\$ 60,192		\$ 6,990,000	\$ 60,192
2/15/2007	31	\$ 6,990,000	\$ 60,192		\$ 6,990,000	\$ 60,192
3/15/2007	28	\$ 6,990,000	\$ 54,367		\$ 6,990,000	\$ 54,367
4/15/2007	31	\$ 6,990,000	\$ 60,192		\$ 6,990,000	\$ 60,192
5/15/2007	30	\$ 6,990,000	\$ 58,250		\$ 6,990,000	\$ 58,250
6/15/2007	31	\$ 6,990,000	\$ 60,192	\$ (1,165,000)	\$ 5,825,000	\$ 1,225,192
7/15/2007	30	\$ 5,825,000	\$ 48,542		\$ 5,825,000	\$ 48,542
8/15/2007	31	\$ 5,825,000	\$ 50,160		\$ 5,825,000	\$ 50,160
9/15/2007	31	\$ 5,825,000	\$ 50,160		\$ 5,825,000	\$ 50,160
10/15/2007	30	\$ 5,825,000	\$ 48,542		\$ 5,825,000	\$ 48,542
11/15/2007	31	\$ 5,825,000	\$ 50,160		\$ 5,825,000	\$ 50,160
12/15/2007	30	\$ 5,825,000	\$ 48,542	\$ (1,165,000)	\$ 4,660,000	\$ 1,213,542
1/15/2008	31	\$ 4,660,000	\$ 40,128		\$ 4,660,000	\$ 40,128
2/15/2008	31	\$ 4,660,000	\$ 40,128		\$ 4,660,000	\$ 40,128
3/15/2008	29	\$ 4,660,000	\$ 37,539		\$ 4,660,000	\$ 37,539
4/15/2008	31	\$ 4,660,000	\$ 40,128		\$ 4,660,000	\$ 40,128
5/15/2008	30	\$ 4,660,000	\$ 38,833		\$ 4,660,000	\$ 38,833
6/15/2008	31	\$ 4,660,000	\$ 40,128	\$ (1,165,000)	\$ 3,495,000	\$ 1,205,128
7/15/2008	30	\$ 3,495,000	\$ 29,125		\$ 3,495,000	\$ 29,125
8/15/2008	31	\$ 3,495,000	\$ 30,096		\$ 3,495,000	\$ 30,096
9/15/2008	31	\$ 3,495,000	\$ 30,096		\$ 3,495,000	\$ 30,096
10/15/2008	30	\$ 3,495,000	\$ 29,125		\$ 3,495,000	\$ 29,125
11/15/2008	31	\$ 3,495,000	\$ 30,096		\$ 3,495,000	\$ 30,096
12/15/2008	30	\$ 3,495,000	\$ 29,125	\$ (1,165,000)	\$ 2,330,000	\$ 1,194,125
1/15/2009	31	\$ 2,330,000	\$ 20,064		\$ 2,330,000	\$ 20,064
2/15/2009	31	\$ 2,330,000	\$ 20,064		\$ 2,330,000	\$ 20,064
3/15/2009	28	\$ 2,330,000	\$ 18,122		\$ 2,330,000	\$ 18,122
4/15/2009	31	\$ 2,330,000	\$ 20,064		\$ 2,330,000	\$ 20,064
5/15/2009	30	\$ 2,330,000	\$ 19,417		\$ 2,330,000	\$ 19,417

6/15/2009	31	\$ 2,330,000	\$ 20,064	\$ (1,165,000)	\$ 1,165,000	\$ <b>1,185,064</b>
7/15/2009	30	\$ 1,165,000	\$ 9,708		\$ 1,165,000	\$ <b>9,708</b>
8/15/2009	31	\$ 1,165,000	\$ 10,032		\$ 1,165,000	\$ <b>10,032</b>
9/15/2009	31	\$ 1,165,000	\$ 10,032		\$ 1,165,000	\$ <b>10,032</b>
10/15/2009	30	\$ 1,165,000	\$ 9,708		\$ 1,165,000	\$ <b>9,708</b>
11/15/2009	31	\$ 1,165,000	\$ 10,032		\$ 1,165,000	\$ <b>10,032</b>
12/15/2009	30	\$ 1,165,000	\$ 9,708	\$ (1,165,000)	\$ -	\$ <b>1,174,708</b>